

Office of the  
Churchill County Commissioners  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

December 28, 2000

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room TW-B204  
Washington, D.C. 20554

Re: CC Docket No. 00-247

Dear Madam Secretary:

Pursuant to the Commission's invitation to submit comments in the referenced proceeding, The Board of County Commissioners of Churchill County, Nevada (the "Board"), submits these comments in opposition to the request of Virtual Hipster ("VH") that the Federal Communications Commission ("FCC") assume jurisdiction of an arbitration proceeding leading to an interconnection agreement between Churchill County Telephone & Telegraph d/b/a CC Communications ("CCC") and VH. Pursuant to state law, the Board is vested with sole authority to regulate CCC; accordingly, under the Telecommunications Act of 1934, the Board is the sole appropriate body to arbitrate the terms and conditions of an interconnection agreement resulting in competitive local service in Churchill County, Nevada.

The Telecommunications Act of 1996 (the "1996 Act") provides that "the carrier or any other party to the negotiation may petition a State commission to arbitrate any open issues." 47 U.S.C. § 252(b)(1). "State commission" is defined under 47 U.S.C. §3(41) as

The commission, board or official (by whatever name designated) which under the laws of any state has regulatory jurisdiction with respect to intrastate operations of carriers.

Section 710.010 of the Nevada Revised Statutes ("NRS") authorizes the Board of County Commissions of any county to purchase or construct a telephone system to operate within county boundaries. In 1889, the Board formed CCC's predecessor by purchasing an existing telegraph line from Western Union which was later upgraded and expanded to a full telephone system which now currently serves Churchill County. Pursuant to NRS § 710.140, control, management and conduct of any telephone or line so purchased, acquired or constructed is vested in the Board

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of County Commissioners of such County. This same statutory section reinforces the exclusivity of the Board's authority by declaring that:

It is expressly provided that no general or other statute shall limit or restrict the conduct and carrying on of such business by the board except as specifically set forth in this section [which includes, as the only exception, compliance with bidding procedures for local government contracts].

Accordingly, the Board constitutes the "State commission". . . which under the laws of Nevada has regulatory jurisdiction with respect to intrastate operations of CCC.

As the Nevada Public Utilities Commission recognized, it lacks jurisdiction to arbitrate an interconnection agreement between CCC and VH. The Board, however, possesses the necessary jurisdiction and is ready, willing and able to arbitrate an agreement between the parties under the guidelines of the 1996 Act. The Board respectfully submits that the 1996 Act specifically precludes the FCC's authority to preempt jurisdiction in this matter unless and until this Board "fails to act," as that phrase is defined under the 1996 Act and the FCC's own rules.

The Board notes that VH has suggested, without verification or substantiation, that the Board, which represents the owners of CCC, cannot serve as an arbitrator without a conflict of interest. Not only is this suggestion groundless and directly contrary to Nevada law and the 1996 Act, it is also irrelevant to the statutorily-mandated division of responsibility and jurisdiction. The Board, as are other State commissions, will be guided by the 1996 Act and public interest considerations. As the authority vested by the State of Nevada with direct oversight responsibility for local telecommunications services, and as a political body directly responsible to its electorate, this Board is fully capable of rendering an unbiased decision.

The Board opposes this petition as an unwarranted attempt to usurp its lawful authority and urges the FCC to dismiss it expeditiously.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gwen Washburn".

Gwen Washburn

Chairman

Churchill County Board of Commissioners

## CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Churchill County Commissioners and that on this 28<sup>th</sup> day of December, 2000, I caused a copy of the foregoing letter from Gwen Washburn, Chairman of the Churchill County Board of Commissioners to be sent, first-class United States mail, postage prepaid, to the following:

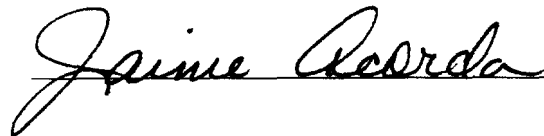
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